

Appendix K: Guiding Principles for Funding 911 from the FCC, NENA, NASNA, and the National Wireless Association (CTIA)

FCC Guiding Policy Principles for any State Funding Mechanism

As NENA's 2007 *Funding 9-1-1 Into the Next Generation* accurately points out, NG9-1-1 will reflect an ecosystem comprised of shared networks, databases, and application environments fostering both traditional and new types of 9-1-1 costs that must be funded. In the new ecosystem, traditional stakeholders in the 9-1-1 community will work together in new and innovative ways, generating a more complex service setting that calls for the sharing of costs and financial obligations. As a matter of principle, 9-1-1 funding mechanisms should be:

- Predictable and stable

This is necessary to support budgetary planning, as migration to NG9-1-1 will occur over several years and involve capital intensive projects. Revenue streams must be predictable and stable to support essential financial and budgetary planning.

- Based on a consumer's ability to request emergency services

Funding 9-1-1 service should be directed to the potential end user that such service is intended to benefit. Such a "user fee" should be based on the use of any communication service that supports requests for emergency services.

- Reasonable, equitable, and non-discriminatory

9-1-1 fees assessed on end-users should be set at a reasonable rate, equitably applied, and nondiscriminatory based on non-recurring and recurring costs to deploy 9-1-1 services as required by State law.

- Assessed on all services that can access NG 9-1-1 systems

This is the complement to the second principle outlined above. 9-1-1 fees should be applied to any communications service with the capability of reaching 9-1-1 public safety agencies to request emergency services response.

- Technologically and competitively neutral

9-1-1 funding policy should support a technologically and competitively neutral service environment and provide 9-1-1 agencies an opportunity to deploy and upgrade 9-1-1 technologies as advancements are made. Such funding

mechanisms also should be flexible enough to accommodate the evolution of communication technologies.

- Designed to assure fees can only be used to support 9-1-1 systems

As a communications user fee, funding should be dedicated to the provisioning, maintenance, and upgrade of emergency communication systems as defined by state statute and related state and local rules and policies. All revenues collected should be dedicated specifically for such purposes and not diverted to other uses. 9-1-1 funds should be collected and deposited in special purpose dedicated fund/accounts held outside the legislative appropriations process and not subject to restrictions beyond the scope of the authorizing 9-1-1 legislation. Language also should be considered that prohibits the diversion of 9-1-1 funds for purposes beyond the scope of the legislation.

- Designed to assure fair and equitable allocation of the funds collected to provide service to those that pay the fees

Distribution of 9-1-1 fees should be allocated to authorized 9-1-1 stakeholders based on the relative share of cost and be distributed in a fair, consistent, and equitable manner.

- Designed to assure the revenues collected are sufficient to address transitional, provisioning, and ongoing operational costs

Migrating to NG9-1-1 will involve transitional, provisioning, and operational costs. Any funding mechanism must be sufficient to support all three types of costs, including a combination of legacy and emerging NG9-1-1 costs during the initial stages of transition. The funding of ongoing operational costs must allow for the replacement of capital equipment and upgrades to 9-1-1 systems.

- Clearly identified and accountable

9-1-1 fees billed to end user/devices should be identified separately as a “9-1-1 Emergency Services User Fee” on consumer/user bills. Service Providers billing 9-1-1 fees should be subject to audit to ensure proper billing and remittance of the 9-1-1 fee. 9-1-1 agencies should be subject to audit.

- Clear enough to avoid complicating the intergovernmental and sharing environment they support

9-1-1 funding mechanisms shouldn't overly burden local government and should allow for flexibility in the planning, deployment, and operations of 9-1-1 systems, including intergovernmental and shared service environments.

Source: Task Force on Optimal PSAP Architecture 2016.

NENA Principles

Regardless of the ultimate model chosen, sufficient funds must be provided to pay for migration to and maintenance of a NG9-1-1 system (the network and associated control and database systems), as well as PSAP equipment and operational and training costs, to ensure all emergency communications are routed to the appropriate PSAP and information is efficiently shared amongst the appropriate emergency response entities. In assessing and collecting 9-1-1/emergency communications funds, some basic principles should be adhered to:

1. Funds collected must be used for their intended purpose—no raiding for non-9-1-1/emergency communications purposes;
2. Funding from all access methods—any communications device on which the public has an expectation to receive emergency services;
3. Technologically and competitively neutral;
4. Equitable allocation of revenues;
5. Constantly evolving system focused on improving level of service;
6. Efficient, accountable operations; and
7. Coordination, cooperation, and collaboration amongst all industry players and government entities.

Source: National Emergency Number Association 2007.

NASNA Position

The 911 funding model based on fees on wired and wireless telecommunications services must be adjusted to remain a reliable source of sustainable funding, although the rate of decline and the impact on 911 operations varies from state to state. As a result, changes to 911 funding mechanisms will occur at different times in different states. States could adopt one of the NASNA-recommended models or a combination of them.

A Single, Nationwide Funding Model Will Not Work

NASNA members are in agreement that no single solution will work for all states – there is simply too much diversity in the statutory and regulatory frameworks within which the state 911 programs operate and in the degree to which adequate funding for

911 is a problem. For example, some states define eligible uses of 911 funds broadly and others narrowly, which may have an impact on how far available funds will stretch. Some states (and counties) are able to fund 911 completely through their 911 fee and others are not, which means there will be variability in the degree to which states feel the need to make a change.

Defining 911 Service

NASNA debated the pros and cons of attempting to achieve a national consensus definition of what 911 service is, but ultimately reached the conclusion that funding for 911 has to be independent of any definitional considerations. What we mean by this has to do with the previous point about how states define eligible uses of 911 funds—whether broadly or narrowly. Although this clearly has an impact on available funding, NASNA’s position is that variability exists among the states because each state’s needs, circumstances, and policies are different. This variability is so much a part of our historic fabric as a nation that it is not going to change. We must work with it. That said, allowable uses of 911 funds must include everything necessary to prepare for a successful transition to NG911, including development of the necessary GIS data and infrastructure.

Everyone Should Help Pay for 911

NASNA believes that everyone who uses the 911 system should help to pay for that system. In many parts of the country with transient or seasonal populations, the people that use the local 911 system pay 911 fees in another region altogether (e.g., students, tourists, commuters). The ideal funding model would broadly capture everyone who uses or benefits from the system whether they live in the jurisdiction or are just passing through or visiting. Providers should help pay for the system, as well.

Fund Diversions

Much has been said and written about the importance of making 911 funds “raid proof.” NASNA agrees that states should make every effort to enact laws to prevent the diversion of funds to non-911 purposes. Nevertheless, the reality is that state legislatures can enact such legislation, and a future legislature can take it away in an effort to address a larger economic crisis. Even where such provisions are in place, those responsible for the oversight of 911 funds need to maintain vigilance and be ready to advocate for the inviolability of the funds.

Timeframe for Adopting a New 911 Funding Model

Given the pace of NG911 deployments and the increase in funding sustainability issues, NASNA takes the position that the timeframe for replacing or augmenting the current funding mechanism is the next two to five years. This range reflects the fact that some states may need to address this sooner than others. As previously noted, some states may not feel the need to change and will continue to rely on the current 911 funding model for years to come.

Source: National Association of State 9-1-1 Administrators, No date.

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Policy Considerations As States Transition 9-1-1 Fees Toward NG911

The majority of states impose a wireless 9-1-1 fee to help defray the cost of emergency communications systems. Some states impose this fee at the state-level, others impose this fee at the local level, and some do both. At its inception, the Enhanced 911 (“E911”) fee supported two phases. In Phase I, the Public Safety Answering Point (“PSAP”) automatically receives the caller’s wireless phone number. In Phase II, the PSAP receives both the caller’s wireless phone number and location information. According to the National Emergency Number Association (NENA), as of October 2013 98.2% of the US population has Phase II capability.

The next “phase” of 9-1-1 will be the roll-out of Next Generation 9-1-1 (“NG911”). NG911 is intended to expand E911’s current circuit-switch voice capability to a broader Internet Protocol-based (“IP”) system. This system will accommodate voice, data and video transmission. As the federal government determines the national policy framework and standards for the NG911 ecosystem, it is inevitable that the states will also begin embarking on a similar examination of their 9-1-1 statutes, particularly with an eye toward funding NG911. In doing so, the goal should be to provide citizens with efficient emergency communications services, but to do so in a way that does not exacerbate further the current tax and fee burden on wireless consumers. As such, the wireless industry endorses the following policy considerations as states seek to update their 9-1-1 statutes with an eye toward NG911:

- **Fees Should be Imposed on End-user**

For billed wireless service, the fee should be imposed on the consumer and collected as part of the normal billing process. For prepaid wireless service, the fee should be imposed on the end-user and collected from the customer at the time of the retail purchase.

- **Single, Statewide Rate Administered at State-level**

Collection of a single, statewide fee reduces administrative burdens for providers and allows states and localities to utilize scarce public funds to leverage economies of scale and share resources when appropriate.

Any efforts to establish a federal 9-1-1 fee should be strongly discouraged. Wireless consumers bear a tax burden more than two times the tax burden on regular goods and services. Imposing a federal 9-1-1 fee in addition to a state-level 9-1-1 fee is not only egregious, but severely violates the principles of rational tax policy and exacerbates further the discriminatory tax regime on wireless consumers.

- **State Legislature Should Set the 9-1-1 Rate in the Statute**

The state legislature should set the rate of the statewide 9-1-1 fee in statute. If the state 9-1-1 agency believes the amount of the 9-1-1 fee is no longer appropriate, they should come before the legislature and justify the reason for an increase or decrease in the rate.

- **Funds Should be Spent on 9-1-1 systems**

Wireless carriers annually collect over \$2 billion dollars of dedicated taxes, fees and surcharges from wireless consumers. The intent of 9-1-1 fees is to specifically support the costs to establish and maintain the emergency communications systems so that PSAPs have the ability to call back wireless 9-1-1 callers and pinpoint their location within FCC prescribed guidelines. As PSAPs begin to examine and transition to NG911, it is very important that clearly-defined, uniform statewide definitions pertaining to “allowable costs” be administered across the state. 9-1-1 funding must be limited to “allowable costs” and should not

be a funding source for the agencies' general budgets. "Allowable costs" could include the nonrecurring costs of establishing a 9-1-1 system, the cost of emergency telephone and dispatch equipment and costs for training for maintenance and operation of the 9-1-1 system. Conversely, "allowable costs" should not include the cost for leasing real estate, cosmetic remodeling of facilities, salaries or benefits or emergency vehicles. States should be prohibited from using the 9-1-1 fund to pay for other unrelated expenses.

- **Need for Accountability and Audits**

9-1-1 operations and expenditures should not only be efficient, but also transparent and accountable to an oversight board and to the public through annual reports to the legislature and/or Governor. Annual reports should contain information regarding collections and expenditures and progress toward the goal of statewide deployment.

- **Justify Costs or Reduce Imposition**

As with any system implementation involving significant capital expenditures, costs should decrease once states implement their NG911 system. Accordingly, states should carefully examine whether new technologies can decrease PSAP costs and adjust 9-1-1 fees accordingly.

- **PSAP Efficiencies**

State-level coordination is practical from a technical and financial perspective. Consolidation of PSAPs into regional PSAPs covering as large a number of local jurisdictions as can be efficiently served should be encouraged.

- **Funding Should Ultimately be from General Revenue**

States have historically funded some or all 9-1-1 costs from user fees on telecommunications service customers. However, as communications services evolve from traditional telecommunications services using the publicly switched telephone network (PSTN) to a host of Internet-protocol based services, states should examine whether the existing funding mechanism is still viable. Since emergency communications service is an essential government service and provides a common benefit for all citizens, a strong public policy argument exists that these services should be funded through the broad-based taxes that finance general fund expenditures. States should establish a long-term goal of phasing-out 9-1-1 fees on communications services and using general fund revenues for 9-1-1 programs. This will likely prove to be a more stable funding mechanism than depending on fees from an industry that is changing more rapidly than policymakers ever anticipated when 9-1-1 fees were first implemented.